

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:10-cr-00509-JCM-RJJ

ORDER

DIANE TEDESCO

Defendant.

Presently before the court is *pro se* defendant Diane Tedesco's motion to appeal sentencing protocol procedure. (Doc. # 30). The government filed a response (doc. # 31), and defendant filed a reply. (Doc. # 32).

Simultaneous with the filing of the instant motion, the defendant also filed a motion for a sentence reduction. (Doc. # 29). On November 4, 2015, this court issued an order denying defendant's motion because she was not eligible for a further reduction in her sentence. (Doc. # 33).

The instant motion asks this court to consider defendant's previously-filed motion for a sentence reduction. (Doc. # 29). The government responded that the defendant is not eligible for a further reduction due to the fact that she was previously sentenced below the guideline range. (Doc. # 31). The court notes that in defendant's reply, she asserts that the sentencing guidelines recommended a range of 100-125 months based upon a criminal history category of IV and a total offense level of 27. (Doc. # 32 at 1). However, defendant misunderstands the calculation of her sentence. The defendant was sentenced based upon a criminal history category of VI and a total offense level of 27, making the guideline range 130-162 months. (Doc. # 26 at 4-5). The court

1 then granted a downward departure of two levels, sentencing the defendant to a total of 110
2 months, a sentence that is below the guideline range for her criminal conduct. (*Id.* at 15, 22).
3 Because defendant was sentenced below the guideline range, she is not eligible for any further
4 reductions in her sentence. As the court has already ruled on this matter in defendant's previous
5 motion, defendant's instant motion to appeal sentencing protocol procedure is denied as moot.
6 Accordingly,

7 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the defendant's motion to
8 appeal sentencing protocol procedure (doc. # 30) be, and the same hereby is, DENIED as MOOT.

9 DATED THIS 5th day of November, 2015.

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11 JAMES C. MAHAN
12 UNITED STATES DISTRICT JUDGE
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